

Senate Bill No. 1269

CHAPTER 599

An act to amend Section 25249.7 of the Health and Safety Code, relating to toxic chemicals.

[Approved by Governor October 5, 1999. Filed
with Secretary of State October 10, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1269, Alpert. Toxic chemicals: private enforcement actions.

The existing Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) prohibits any person, in the course of doing business, from knowingly and intentionally exposing any individual to a chemical known to the state to cause cancer or reproductive toxicity without giving a specified warning, or from discharging or releasing such a chemical into any source of drinking water, except as specified.

The act imposes civil penalties upon persons who violate those prohibitions, and provides for the enforcement of those prohibitions by the Attorney General, a district attorney, or specified city attorneys or prosecutors, and by any person in the public interest, if that private action is commenced more than 60 days after the person has given notice of the violation that is the subject of the action to the Attorney General, the district attorney, any city attorney in whose jurisdiction the violation is alleged to have occurred, and to the alleged violator, and the violation is not being prosecuted, as specified.

This bill would require any person bringing an action in the public interest to notify the Attorney General that such an action has been filed, and would require such a person, after the action is either subject to a settlement or a judgment, to submit to the Attorney General a reporting form that includes the results of that settlement or judgment and the final disposition of the case. The bill would also require a person bringing an action in the public interest to submit to the Attorney General a report that includes information on any corrective action being taken as a part of the settlement or resolution of the case. The bill would require the Attorney General to develop a reporting form, for purposes of these requirements, that specifies the information to be reported, including the date the action was filed, the nature of the relief sought, the amount of the settlement or civil penalty assessed, and any other information the Attorney General deems appropriate.

The bill would require the Attorney General to maintain a record of that information and to make this information available to the public.

The bill, in conformance with the requirements of Proposition 65, would make a legislative finding and declaration that the bill would further the purposes of the act.

The people of the State of California do enact as follows:

SECTION 1. Section 25249.7 of the Health and Safety Code is amended to read:

25249.7. (a) Any person that violates or threatens to violate Section 25249.5 or 25249.6 may be enjoined in any court of competent jurisdiction.

(b) Any person who has violated Section 25249.5 or 25249.6 shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) per day for each violation in addition to any other penalty established by law. That civil penalty may be assessed and recovered in a civil action brought in any court of competent jurisdiction.

(c) Actions pursuant to this section may be brought by the Attorney General in the name of the people of the State of California or by any district attorney or by any city attorney of a city having a population in excess of 750,000 or with the consent of the district attorney by a city prosecutor in any city or county having a full-time city prosecutor, or as provided in subdivision (d).

(d) Actions pursuant to this section may be brought by any person in the public interest if both of the following requirements are met:

(1) The private action is commenced more than 60 days from the date that the person has given notice of an alleged violation of Section 25249.5 or 25249.6 which is the subject of the private action to the Attorney General and the district attorney, and any city attorney or prosecutor in whose jurisdiction the violation is alleged to have occurred, and to the alleged violator.

(2) Neither the Attorney General nor any district attorney nor any city attorney or prosecutor has commenced and is diligently prosecuting an action against the violation.

(e) Any person bringing an action in the public interest pursuant to subdivision (d) shall notify the Attorney General that such an action has been filed.

(f) (1) Any person bringing an action in the public interest pursuant to subdivision (d) shall, after the action is either subject to a settlement, with or without court approval, or a judgment, submit to the Attorney General a reporting form that includes the results of that settlement or judgment, and the final disposition of the case, even if dismissed. At the time of the filing of any judgment pursuant to an action brought in the public interest pursuant to subdivision

(d), the plaintiff shall file an affidavit verifying that the report required by this subdivision has been accurately completed and submitted to the Attorney General.

(2) Any person bringing an action in the public interest pursuant to subdivision (d) shall, after the action is either subject to a settlement, with or without court approval, or to a judgment, submit to the Attorney General a report that includes information on any corrective action being taken as a part of the settlement or resolution of the action.

(3) The Attorney General shall develop a reporting form that specifies the information that shall be reported, including, but not limited to, for purposes of subdivision (e), the date the action was filed, the nature of the relief sought, and for purposes of this subdivision, the amount of the settlement or civil penalty assessed, other financial terms of the settlement, and any other information the Attorney General deems appropriate.

(g) The Attorney General shall maintain a record of the information submitted pursuant to subdivisions (e) and (f) and shall make this information available to the public.

SEC. 2. The Legislature hereby finds and declares that this act furthers the purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986.

